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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/436,219	11/09/1999	AKIRA NAGAE	104721	6312

25944 7590 08/07/2002

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EXAMINER

BURCH, MELODY M

ART UNIT	PAPER NUMBER
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3683

DATE MAILED: 08/07/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Applicati n No.

09/436,219

Applicant(s)

NAÇAE ET AL.

Examiner

Melody M. Burch

Art Unit

3683

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 24 July 2002 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
 - (b) ☐ they raise the issue of new matter (see Note below);
 - (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 - (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____

3. ☐ Applicant's reply has overcome the following rejection(s): _____.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____.

Claim(s) objected to: _____.

Claim(s) rejected: 1-7.

Claim(s) withdrawn from consideration: _____.

8. ☐ The proposed drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____.
10. ☐ Other: _____

Continuation of 5. does NOT place the application in condition for allowance because: Examiner maintains that the phrase "the first parameter quantity exceeding a threshold value predetermined therefor so as to counteract a further increase of the rolling amount by the deceleration of the vehicle" is not supported. The areas of the specification pointed out by Applicant teach decelerating the vehicle to prevent roll-over; however, this teaching does not inform one of ordinary skill in the art that it is specifically the first parameter quantity exceeding a threshold value as opposed to, for example, the value of the target deceleration increasing from a predetermined minimum value to a predetermined maximum value according to an increase of the second parameter quantity that serves to counteract a further increase of the rolling amount. With regard to the rejections on the merits, Examiner notes that in response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986). Examiner reiterates that it is the combination of Halasz in view of Harada that teaches the claimed invention. It was explained that the motivation to combine the references was based on the fact that both references monitor over-rolling parameters to determine the activation of a vehicular safety device and that the combination merely included the modification of the vehicular safety device of Halasz with the vehicular safety device of Harada which is a vehicle braking system having a deceleration control apparatus that achieves a target deceleration. Examiner further notes that the vehicle braking system achieving a target deceleration serves to protect the passenger of the vehicle to the same extent as the devices incorporated in the Halasz reference. With regard to the rejection of claim 1 on its merits being inconsistent with the 112 1st rejection, Examiner notes that although an action with only the 112 1st rejection could have been sent, a treatment of the claim, as best understood, on its merits often helps to expedite prosecution as it leads to Applicant's remarks including responses to the 112 rejections and the rejections on the merits. Finally, it is noted that Applicant incorrectly claims that Halasz's teaching of the predetermined minimum and maximum taught in col. 7 of the reference and emphasized in the interview summary is a new ground of rejection. The teaching was set forth in paragraph 7 in lines 3-4 on page 4 of the final office action.

mmB
8/2/02

M. C. Graham
8-6-2002

MATTHEW C. GRAHAM
PRIMARY EXAMINER
GROUP 310